



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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**Testimony of Commissioner Sean Dilweg  
To the Assembly Insurance Committee  
On Senate Bill 386  
January 24, 2008**

Thank you Chairman Erpenbach and Committee members for the opportunity to testify before you on SB 386.

We are pursuing this bill to clarify existing statutes, bring insurance regulation into compliance with federal HIPAA requirements and to incorporate changes that are requested by the Wisconsin Insurance Security Fund.

I have worked with all interested parties to ensure that this bill does not harm consumers, does not result in an unfair advantage for any interested party and does not create an unfair regulatory burden.

Specifically, the items in SB 386 include:

**Investment in Subsidiaries.** Clarifies the existing statutory limitation that allows a 10% aggregate investment of domestic stock and mutual insurance companies in subsidiaries other than insurance subsidiaries, investment subsidiaries, or ancillary subsidiaries, such as insurance agencies, securities dealers, investment companies, financial advisors, etc.

**Approval of Mergers.** Current law states that any merger or acquisition of a domestic stock insurer may not be submitted to the shareholders unless the proposed merger has been approved by the Commissioner. The legislation retains the requirement that the plan to acquire or merge be approved by the Commissioner before it is implemented. Wisconsin is the only state that requires the Commissioner's approval prior to submission to shareholders. The legislation would remove this requirement. Since any merger would still need the Commissioner's approval, regardless of shareholder approval, current law represents an unnecessary regulatory requirement.

**Wisconsin Insurance Security Fund Changes.** Moves several Security Fund board provisions from the administrative rules to the statutes and changes the number of insurer representatives on the fund board from between 7 and 14 members to between 9 and 11 members. Insurer representatives are appointed by the Commissioner on recommendation by the board. It also permits insurer representatives to designate an alternative representative.

Sets the deadline for filing a claim against the fund to 18 months after an order of liquidation is entered, if that order does not specify a deadline.

Establishes a rate of interest or crediting rate on benefit payments under certain covered contracts to a rate based on Moody's average rate or the contract's guaranteed rate.

Changes the assessment base for life and health companies to a percentage of average annual premiums for the 3 most recent years preceding the year of the liquidation order.

Includes pre-paid health care providers that contract with DHFS among the types of insurance or insurance type products that are not covered by the fund.

These changes add more clarity to fund participation, modernize the Security Fund board make-up to account for changes among member insurers, and codify some security fund provisions that currently exist under administrative rule.

**Premium tax statute of limitations.** Clarifies s. 76.68, Wis. Stat. to require that *any* suit for a refund of a premium tax must be filed within 6 months of the date of payment. Current law leaves some types of lawsuits for refunds of premium taxes (and license fees) without a statute of limitations, leaving the state exposed to a suit indefinitely.

**Group Insurance Certificates.** Current law requires that an insurer issuing a group insurance policy must provide a certificate of coverage to each member of the insured group. The bill allows insurers to make the certificates of coverage/insurance available electronically via the internet or the policyholder's internal network web site if the insurer requests that the policyholder post the information in such a way that brings the information to the attention of the certificate holders. Additionally, the insurer is required to provide notice to the policyholder of any significant change in the certificate and requests that the policyholder post the information in such a way that brings the information to the attention of the certificate holders.

Most health insurers have informed the OCI that providing group certificates electronically, usually via an internet web site, is an efficiency measure to help reduce administrative costs. Current law requires that certificates be delivered in hard copy. This change still requires insurers to provide a paper copy of the certificate, if requested.

**Definition of Late Enrollee.** Clarifies that an eligible enrollee, and the enrollee's dependents, to a group health benefit plan who enrolls outside a typical enrollment period shall not be considered a late enrollee if he or

she previously declined coverage under the group health benefit plan due to enrollment in other group coverage. This change is necessary to enable Wisconsin statutes to conform to federal Health Insurance Portability and Accountability Act (HIPAA) requirements.

**Prohibiting Requiring Property Insurance in Excess of Replacement Value.** Prohibits lenders from requiring borrowers to obtain property insurance in excess of the lesser of replacement or market value of the improvements on real property as a condition of obtaining or receiving a loan secured by the real property. This measure ensures that mortgage lenders requiring property insurance coverage do not require property insurance to also cover the value of any land as a condition of receiving a mortgage loan. Generally, land is not insurable.

**Local Government Property Insurance Fund Investments.** Removes LGPIF from the state investment fund and allows SWIB to invest in an authorized list of investments consistent with the fund's cash needs. This change is expected to produce additional investment income that can moderate premium rates.

**Local Government Property Insurance Fund coverage of non-owned property.** Provides that the LGPIF may not provide coverage for non-owned property except under certain conditions. This change will further limit the fund's loss exposure on non-owned property.

**Stop-Loss insurance coverage.** Reiterates in the statutes that stop-loss coverage of an employer self-funded health plan is insurance that is governed by the insurance statutes.

**License fee and assessment recoveries.** Provides that filing suit in Dane County circuit court is the only remedy for recovering a license fee or assessment paid by an insurer.

**Advisory councils and committees.** Technical change to permit the Commissioner to designate alternative councils or committees when developing changes to the uniform small-employer health insurance application. This change provides for greater flexibility in using permanent or ad hoc committees to evaluate changes to the small-employer insurance application.

**Privileges against disclosure of certain records.** Clarifies existing privilege where the Commissioner may refuse to disclose certain records or testimony or may waive the privilege.

This Bill brings clarity to certain insurance regulatory standards allowing for more uniform compliance with the resultant improvement to the insurance market place in the State of Wisconsin. I have ensured that the provisions of this bill have been vetted with interested parties and I

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am not aware of any opposition. I urge you to support SB 386 and would welcome any questions that the committee has for me.

Thank you.